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LETTER FROM JOHN ROSS,

THE

PRINCIPAL CHIEF OF THE CHEROKEE NATION,

TO

A GENTLEMAN OF PHILADELPHIA.

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Brinley 5581
no. 9

REMARKS.

The following letter was received in Philadelphia, about the period of its date, in May last. Its appearance was deferred, in consequence of a desire to accompany it with a few observations upon the general subject of Indian annals in the United States. The preparation of these has been so long delayed, that further postponement would be inexcusable. It has, therefore, been determined to give publicity to the letter, reserving its intended accompaniment for a future occasion, and a different medium.

The writer is sensible of the lameness of his apology for so long withholding from the public, a production of so much interest and merit; and seeks to lessen the blame he might incur by expressing the hope, that it may induce a second communication from the author, detailing some events which have occurred since its composition.

The temper of this epistle, will commend it to the kind consideration of every calm and dispassionate mind, whilst its facts and reasonings must carry conviction to all readers. It is a skilful and comprehensive survey of the Cherokee question, and unfolds in cool language, a course of conduct which makes the patriotic cheek burn with shame, and the patriotic heart glow with indignation. May its perusal produce the proper effect in the proper quarter, and induce those elevated measures which policy, humanity, and honour concur to recommend. No achievement of national might is equal, in greatness, to the performance of NATIONAL JUSTICE, and without this, what is called *national honour*, is not only an empty name, but a false and ironical ascription.

Philadelphia, December 26, 1837.

LETTER.

WASHINGTON CITY, May 6th, 1837.

SIR,

I return you my sincere thanks for your Discourse on the "Surviving Remnant of the Indian Race." We have found so little sympathy among our white brethren that every instance of its spontaneous exhibition touches us deeply.

On the present occasion there are many reasons why we should be more than usually affected. Your vindication of our case is as generous and unexpected as it is elegant and able. The society of which you were the organ bears a name which every Indian delights to honour.¹ William Penn is one of those white men whose landing upon the shores of what was then the Indian's country, brought only peace and comfort. His influence was exerted in the cause of Christian benevolence and philanthropy. Cruelty and rapacity never followed in his footsteps. The prosperity of the great commonwealth which he founded, was not fostered by the blood nor tears of the nations of the forest. We can fully appreciate the justice of the annual commemoration, by your society, of an event affording to all his race an example, which, had it been always followed, would have saved them from the responsibility and the consequences of many an act of oppression, of injustice, and of outrage, and ourselves from the agony of many a heartache.

You have touched our case with a master's hand, and treated the whole subject of Cherokee affairs with great ability and intelligence. You have brought before your society a rapid notice of our recent history up to the time of the last action of congress upon our affairs. I wish you to be made acquainted with what has since transpired, and to know what has been done and is contemplated hereafter, with a view to spread before

¹ The Society for Commemorating the Landing of William Penn.

the American people and their government a full knowledge of our circumstances, for the purpose of awakening that interest in our behalf upon which we yet rest our hopes of justice, and of which we shall not to the last despair.

With the history of our nation up to the period above adverted to, you are sufficiently informed to supersede the necessity for more than a very rapid retrospect. The friendly intercourse between the United States and the Cherokees, commenced at a very early period of your national history. The treaty of Hopewell, by which our nation was received into the favour and protection of the United States, was dated in 1785. This instrument fixed the boundary which was then agreed upon. It will be remarked that the line which it indicates, was designed merely as a demarcation between the parties to it, and is consequently exclusively confined to the eastern limits of the Cherokee nation. It begins at the mouth of the Duck river, in what is now the state of Tennessee, and, running through portions of both Carolinas and Georgia, terminates at the head of the south fork of the Oconee, in the last named state. The country which we then owned, comprehends what is now a fertile and densely populated portion of the Union.

At a very early period after the organisation of your present form of government, the illegal encroachments upon our lands, and the outrages perpetrated upon our rights, attracted the notice of President Washington. With a view to adjust all the difficulties growing out of these fruitful sources of discord, another treaty was negotiated in 1791, at Holston. A different boundary was established, and the Cherokees placed themselves under the protection of the United States. A reference to this treaty will show that we had yielded to our neighbours a large portion of our territory, but by the seventh article we obtained the solemn guarantee of the United States to all our lands not then ceded.

In the year 1798, a further treaty was concluded between the parties, at Tellico, by which another large cession was made, and again by the express provisions of the instrument, the remainder of their country was for ever guaranteed to the Cherokees. This was, however, soon followed by another treaty of cession in 1804, two treaties in 1805, and early in 1806, another. By each of these treaties important and valuable districts were ceded. A temporary suspension of these proceedings now occurred, but in 1816 three several treaties were made, in 1817 another, and these were followed up by that of February 1819. Each of these instruments contributed to narrow our limits and to curtail our territory. A peace of permanent policy was avowed, and the treaty of 1819 was regarded as a final measure. Such of the nation as were disposed to emigrate beyond

the Mississippi, and to retain their original hunter habits, were provided for ; those who preferred remaining, and to pursue the arts of civilisation, were to remain ; property which had been held in common, was to be enjoyed in severalty ; the limits of individual rights were to be fixed and permanent interests to be held in land.

The Cherokees, who had already made considerable progress in the pursuits of agriculture, &c., continued rapidly to advance under this system. Education became more widely diffused, a new alphabet invented by one of them, became the vehicle for disseminating useful information in their own language. A newspaper was established, a code of laws framed, and political institutions, adapted to their circumstances, were organised. With this change of manners their numbers increased, and wealth began to accumulate. Such were some of the blessings which the Cherokees had derived from their intercourse with the whites. They were contented, prosperous, and happy, and looked forward with confidence to an augmentation of all their sources of prosperity. They realised, to a considerable extent, the benefits which had been promised them. They had parted with nineteen twentieths of their original possessions, but the rest was secured to them by sanctions, guarantees, and pledges, which professed to be sacred and inviolable.

These anticipations were however not to be wholly fulfilled. Notwithstanding the understanding of all parties that the arrangements of 1819 were to be permanent and final, that no further cessions of territory were to be required or made, that we were to be suffered to retain as private property, the comparatively small remnant of our original territory which had not been disposed of, it soon appeared that while one acre remained in our hands it would be viewed with the eyes of cupidity. Although one of the conditions upon which we had given so much was that the residue should be guaranteed to us for ever, although the treaty of 1819 was declared to be a final adjustment, although the United States had stipulated to remove all intruders from our lands, and to protect us against similar outrages in future, yet none of these provisions in our favour have for years been of any practical value.

In our memorial to the senate, in March, 1836, you will find a summary statement of the wrongs under which we laboured. We then stated that "the Cherokees were happy and prosperous till the year 1828, when the United States entered into a treaty with the Cherokees west of the Mississippi, in which, though the Cherokee nation east was no party, or consulted, certain stipulations were introduced affecting their interests. From this date the agents of the United States commenced their interference with the internal affairs of the Cherokee people. A

system was devised and prosecuted to force them to emigrate by rendering them unhappy where they were."

In June, 1834, a paper, purporting to be an agreement, was executed between John H. Eaton, a commissioner, on the part of the United States, and Andrew Ross, Thomas J. Park, John West, and James Starr. These individuals were members of the Cherokee community, but were never authorised to act on behalf of the nation, nor did they hold any appointment or office which would carry with it a presumption that they had authority so to act. Yet with these men an instrument purporting to be a treaty, was signed. As soon as it came to the ears of the nation, decisive steps were taken, a protest from about thirteen thousand Cherokees was submitted to the government, disclaiming the proceeding. It was submitted to the senate for ratification as a treaty properly and duly negotiated, but in consequence of the representations made to that honourable body, and the evidence exhibited before it, it was rejected. Upon what ground it could ever be claimed to be an authoritative national act, is yet to be learned.

By direction of the President this repudiated instrument was, in November, 1834, submitted to the general council of the nation for its approval. It was, however, again most deliberately and solemnly rejected.

During the ensuing winter a delegation from the nation was at Washington for the purpose of arranging the existing difficulties. Before terms were agreed upon, and shortly after the conferences had begun, a few individuals of the nation, equally without authority as those who had been before prevailed upon to assume such powers, arrived in the city, and within a few days the regularly appointed delegation was again passed by, and new negotiations opened with these parties. On the 14th of March, 1835, an instrument purporting to be a treaty was signed by these parties and transmitted by the president to the nation for its approval. Every effort was made to extort this approbation. The annuities due to the nation were withheld—the fears of some were excited by threats of personal violence, made by the United States agents,—others were arrested by the military and placed in confinement,—their press was seized. At one of the meetings of the nation, the reverend Mr. Schermerhorn, who has performed a conspicuous part in these transactions, distinctly apprised the Cherokees that if they remained on this side of the Mississippi, their difficulties would increase, "that the screws would be turned upon them till they would be ground into powder."

Notwithstanding all these efforts to intimidate the nation into an approval of this instrument, it was rejected with great unanimity. A delegation, however, was again appointed to nego-

tiate with the United States commissioner upon all the subjects of difference. It appeared, however, that his powers were limited, and in consequence of this and other causes it was deemed advisable that the delegation should proceed to Washington, and this determination was announced to the commissioner.

During the interval between the adoption and execution of this plan, the principal chief of the nation, who was also the chairman of the delegation, was arrested and imprisoned, his papers seized and examined, without any cause being assigned and without any legal process. This act of outrage, followed by no judicial investigation, was, according to the avowal of one of the actors in it, perpetrated by the orders of B. F. Curry, a United States agent.

Mr. Curry himself hastened to Washington, procured an order from the department forbidding the delegation to proceed to that place. They notwithstanding did proceed, and on their arrival at the seat of government apprised the department in the customary mode of the fact; and that they were ready to proceed in the business which had brought them on. They were received as usual; propositions were invited from them with assurances that these propositions should be acted upon.

Within a few days, however, information reached Washington that the commissioners who remained behind had negotiated another treaty with a body of unauthorised individuals, and was bringing on with him a delegation. This instrument, to which less than one hundred of the nation ever gave their sanction, directly or indirectly, was in its terms unacceptable to the president: it was again varied in Washington in some important features; and, notwithstanding every remonstrance and opposition on the part of the regularly authorised representatives of the nation, was submitted to the senate, and finally obtained the ratification of that body by a bare constitutional majority.

I have thus given you a rapid sketch of the proceedings which terminated in the so called treaty of December, 1835. The details may be found at large in the congressional documents. This instrument we consider as the consummation of our wrongs. By its provisions all the benefits which we deemed secured to us by valid and effective treaties are in substance annihilated,—all the territory remaining in the hands of the nation or of individuals, is ceded. This instrument, to which so small a portion of our people as less than one hundred have ever been induced, by all the appliances used, to give their sanction, is, we are told, a solemn and sacred treaty, and its stipulations will be fully and rigidly enforced.

It was to have been expected that a measure so monstrous and so glaring, would be followed by acts and misrepresenta-

tions of all sorts for the purpose of sustaining it. Paragraphs, calculated to produce alarm and consternation, were insidiously thrown into the public papers the moment this spurious treaty was signed, and some of them before the news of its ratification by the senate could have reached the nation. Rumours of an armed opposition to its enforcement were fabricated, and one of these publications was headed, "The Cherokees are up !!!"

For myself, I had calls of too serious and pressing import to allow of my wasting time in hunting down these calumnies or exposing these prophecies, which had no other prospect of being verified than by themselves producing the effects they affected to foretell. The principal agent in getting up this spurious treaty was the reverend Mr. Schermerhorn, the same individual who by similar means involved the country in a war with the Seminolians, by which millions of money, and lives still more valuable, have been lost. I was persuaded that however the cases and the people might differ, it would be attempted to confound the Cherokees with the Seminolians, and to take alarm at and to exaggerate the slightest expression of discontent. I knew that the perpetrator of a wrong never forgives his victim; and that there were some who would excite our people to open indications of resentment as a pretext for violence and a justification of themselves. It was therefore made my earnest business, by a calm and direct course, to endeavour to confirm the often expressed resolution of the Cherokees, to rely entirely upon remonstrance, and to pursue such a course as would satisfy the people of the United States and their representatives, that we had been the victims of injustice. Our people were assured that when the treaty-making power should discover the real truth he could not fail to be just.

The agents of the United States seem to be aware that the Cherokee nation had never sanctioned this pretended treaty. No sooner had it been hurried through the forms of ratification than they obtained a military force to overawe the Cherokees and to oppose every attempt to pursue a faithful and honest enquiry into the real facts of the case. On my return to my constituents, having been detained some time by business, I arrived at Athens, in Tennessee, where I met General Wool, the commander of the troops, who had actually reached our country before me. The general expressed great satisfaction that I had come, and informed me that my presence had been much wanted, as he had already been in the valley towns, and found there a feeling so decidedly hostile to the treaty as to require the operation of the most powerful counteracting influences. I assured him that I considered his admission of that fact very important, as it proved that I had been guilty of no misrepresentation, and that his own experience would now enable him to show General Jackson

that the impression under which he professed to act in making this arrangement with the Cherokees was a mistaken one,—he had made a compact to which only one side, and what was still worse only the interested one, had consented, when to ratify a bargain requires the free consent of two. General Wool, in reply, dwelt on the impossibility of changing the determination of the president, and hoped I would advise the people accordingly, and thus prevent such scenes as had taken place in Florida. I assured him that I would pledge my life that the Cherokees would never assert their rights by bloodshed, but that I could not as an honest man advise their assent to a spurious treaty. They might be persuaded to remove, and to remove without resistance, and would be better reconciled to their fate, if the United States would only show them the fairness formally to recognise the removal as the compelled submission of the weaker to the stronger, but they would not in the face of heaven, put their hands and seals to a falsehood. They would not say that arrangements were brought about by honest treaty which were really brought about by deliberate and steadily resisted and exposed craft and duplicity.

General Wool appeared chagrined at his reception in the valley towns. After our interview I discovered the cause. On reaching my destination I learned that various efforts had been made on the arrival of the army in the valley towns, and in various ways, to obtain an acknowledgment of the spurious treaty, but without effect. Even the arms of the people had been demanded, and, although they were actually required by the farmers for the protection of their fields and stock from birds and beasts of prey, in order to remove the smallest pretext for suspicion they were forthwith given up. Some of our people were unable to understand why an army should be sent among us while we were at perfect peace, to enforce the stipulations of a treaty, which, if even obligatory, was not to be executed for two years. Several arrests of men and women, as afterwards appeared, were attributed to expressions of natural surprise upon this head. None of these annoyances, however, produced any unfortunate result. The Cherokees, though unwavering in their objections to the pretended treaty, remained and will remain inoffensive and unresisting.

About four weeks after my return, the nation was convened to receive the report of the delegation. The general was invited to be present, with the troops under his command,—about five hundred of the army attended. Just before the commencement of the proceedings, while upon the platform, a package was placed in my hands, addressed on the envelope to me, and on the inside to the Cherokee people. It was a notice from General Wool communicating in substance the determination

of President Jackson that no alteration in the treaty would be made by him, but that its stipulations should be scrupulously fulfilled.

This communication from General Wool was publicly read and interpreted, and afterwards the paper called the treaty was in like manner read and interpreted. The people were entirely silent in relation to the former. They were then asked if they were disposed to give their assent to the latter. They unanimously answered, No! and insisted upon a new arrangement, alleging that the one exhibited to them had been made with irresponsible, unauthorised individuals, and contained terms and conditions distinctly at variance with their often and publicly proclaimed instructions.

The nation having thus spontaneously and without advice from their rulers, rejected this spurious treaty, and disclaimed it as their act, it appeared to me the most prudent course to encourage them in hoping for better things. It also occurred to me that if those of our brethren who were already in the west, were to unite with us in endeavouring to make the truth of the case known, our prospects of ultimately obtaining justice would be improved. I also knew that this portion of the nation considered the provisions of the treaty, under which they had emigrated and received lands beyond the Mississippi in lieu of what was ceded in the east, as seriously infringed by the document in question. I was further persuaded that the reason assigned for our opposition to the arrangement, viz., our distaste for Arkansas, could not be attributed to those who actually resided there. With these impressions, I recommended the appointment of a delegation to confer with our brethren in the west, upon the propriety of sending a joint embassy to Washington for the purpose of satisfying the government how much they had been misinformed and deceived, and of making a definitive arrangement upon terms acceptable to the nation. At the same time, I assured the people that the treaties already recognised by both parties as existing between them and the United States, would not be broken, and they might confidently trust to that security for obtaining a fair and honest adjustment of controversies, which was all they had ever desired.

The principal resolutions consequent upon these explanations are the following:—

“Whereas, an instrument has been read and interpreted to us, purporting to be a treaty made at New Echota, on the 29th of December, 1835, by the Reverend John F. Sehermerhorn, commissioner of the United States, and the chiefs, head men, and people of the Cherokee tribe of Indians, ratified by the senate and approved by the president of the United States;—and

whereas, by the provisions of this instrument all the lands of the Cherokees are ceded to the United States ; the private improvements and possessions of individuals unjustly alienated from their rightful owners ; the rights of the Cherokees as freemen wrested from the guardianship of their legitimate representatives ; and the management of their affairs placed in the hands of individuals without responsibility, and under the control of officers of the United States government :—and whereas the makers of said compact, who are represented as acting on the part of the Cherokees, and who assume the style of chiefs and head men, hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument.

“Resolved, therefore, by the chiefs, national committee, and council, and the people of the Cherokee nation in general council assembled, that the said instrument is null and void, and can never in justice be enforced upon our nation ; and we do hereby solemnly disclaim and utterly reject said instrument, in its principles and all its provisions.

“Resolved, That a respectful memorial to the government of the United States, be prepared on behalf of the Cherokee people, praying that the said instrument be set aside as a fraud upon the government of the United States, and an act of oppression on the Cherokee people.

“Resolved, That a delegation be invested with full powers to represent the Cherokee people before the government of the United States, to enter into arrangements for the final adjustment of all their existing difficulties : and be it further resolved, that the said delegation be, and they are hereby instructed to confer with the Cherokees west of the Mississippi, on the subject of their acting in concert with us, in efforts to procure the rescinding of said instrument, which in its provisions is calculated to affect injuriously the interests and happiness of both parts of the Cherokee family.

“Resolved, That any irresponsible individuals, assuming to themselves the power to act in the name of our nation, without the authority of the same first legitimately obtained, will be deemed guilty of infringing the prerogatives of the government and violating the rights of the Cherokee people, who will assuredly never sanction such usurpation, nor acquiesce in the doings of such people.

“Resolved, That in the course we have adopted in reference to the instrument in question, no departure from the most respectful and friendly feelings towards the president, the government, and the people of the United States is contemplated ; but, on the contrary, our determination is to maintain and cultivate those friendly relations which have long subsisted between the

government and people of the United States and our own nation."

In addition to the resolutions as here quoted, it was at the same time determined, as no public business remained to be transacted, to waive the general annual council, which in course would have taken place a few days subsequently, (the second Monday in October,) and thus avoid all pretence for charges of a disposition to keep up agitation by public meetings. The paper from which I have made the foregoing extract was signed by the chiefs, committee and council, and people to the number of about two thousand two hundred and fifty-five male adults.

On the 22d of September, 1836, the chiefs, members of the national committee and council, wrote to General Wool, officially communicating the proceedings of the meeting. They returned their thanks to him for the gentlemanly deportment of himself and the troops under his command on the council ground; and they respectfully asked for the restoration of the guns previously surrendered, under the impression that sufficient evidence must have been afforded him that no reasonable grounds for their detention existed. I have not learned that the guns have even yet been returned to the owners.

According to their instructions, the delegation proceeded to Arkansas. The principal chief and authorities of the western Cherokees, convened a council to assemble in eighteen days, at the council house at Tollunteeskey. On calling at Fort Gibson we made known the objects of our visit to the agent, Governor Stokes. After passing a few days with some of my friends, I returned to fort Gibson, and was there privately apprised that an order had been received for the arrest of myself and the other members of the delegation. It was said that we were to be prosecuted under the intercourse act of 1834, an act in no manner applicable to us, as Cherokees visiting Cherokees, its object being confined to intruding citizens of the United States. Nevertheless, I was advised not to appear at the council. To this intimation I replied, that I could not allow myself to be deterred from the plain course of duty, and that as I had nothing to conceal, I had nothing to fear. The council met on the 8th of December, 1836, and we attended. No impediment was thrown in our way, and we heard no more of the order. Among the resolutions adopted at this council were the following:—

"That the course adopted by the general council of the Cherokee nation east, in regard to the instrument aforesaid (the pretended treaty) is hereby approved, and inasmuch as said instrument is equally objectionable to us, and will in its enforcement also effect our best interests and happiness,

"Resolved, That a delegation be and hereby are appointed

to represent the Cherokee nation west, before the government of the United States, and to co-operate with the delegation from the east of the Mississippi, in their exertions to procure the rescinding of the aforesaid instrument; and also with full powers to unite with the delegation aforesaid in any treaty arrangement which they may enter into with the government of the United States for the final adjustment of the Cherokee difficulties, and to promote the advancement of the best interests and happiness of the whole Cherokee people, and to do all things touching the affairs of the Cherokees west for their welfare."

We departed with the members appointed to serve upon this delegation, but the severity of the winter and the obstruction of our route by the ice in the rivers, prevented our arrival at Washington until the 9th of February, 1837, within a month of the close of General Jackson's presidency. We attempted to obtain access to the president, but we were denied an official interview with the president or the secretary. We then memorialised the senate, which memorial was presented, but owing to the press of business, no opportunity occurred for presenting that which we addressed to the house. Copies of our correspondence with the department, and of our memorial, will be attached to this communication, as will also other documents, which shall be presently alluded to. In this memorial we exhibited an account of the treatment we had experienced, and urged our claims in the most earnest and respectful manner. We selected what we considered the strongest arguments in support of our application. We adverted to the extraordinary and inexplicable change which had taken place in the mode of receiving us and our appeals. Among other things we said, "we have asked and we will reiterate the question—how have we offended? Show us in what manner we have, however unwittingly, inflicted upon you a wrong, you shall yourselves be the judges of the extent and manner of compensation; show us the offence which has awakened your feelings of justice against us, and we will submit to that measure of punishment which you shall tell us we have merited. We cannot bring to our recollection any thing we have done or any thing we have omitted, calculated to awaken your resentment against us."

All, however, was in vain. It may be observed that our appeal to the senate was necessarily presented so late in the session that we could not have been fully heard, whatever disposition may have existed in that honourable body to give their full attention to our case.

On the 4th of March Mr. Van Buren assumed the presidential chair. On the 16th of March we addressed the new president, stating to him fully our position and wishes, reviewing the circumstances which had occurred, and the hopes we enter-

tained of receiving redress at his hands. We entreated the president to examine for himself into the grounds upon which we rested our charge, that the document called a treaty was fraudulent and equally an imposition upon the United States and upon ourselves. We asked, "Will the government of the United States claim the right to enforce a contract thus assailed by the other nominal party to it? Will they refuse to examine into charges of such grave import? Will they act in matters so momentous, involving consequences so awful, without enquiry?" Such an enquiry we earnestly courted, saying to the president, "We do not arrogate to ourselves so high a standing in your estimation as to authorise us to ask that you will rely implicitly upon our statements; but we have deceived ourselves most egregiously, if we have not presented to the consideration of the government sufficient grounds to induce hesitation and enquiry. You have at your command hundreds of individuals to whom you may confide the duty of making the investigation which we solicit. Select such as you can implicitly believe, associate with them but a single individual to be appointed by us to direct to the sources of information, and if we fail to establish the truth of our allegations, we shall no longer ask you to delay exercising your power in the enforcement of your rights. Should it, however, appear from such investigation that this instrument has been made without authority, that it meets with the almost unanimous reprobation of our nation, that you have been deceived by false information, we cannot and we will not believe, that under its colour, and under the sanction of those principles of justice which impose an obligation faithfully to perform our contracts and our promises, we shall be forced to submit to its iniquitous provisions.

We concluded our earnest supplication with three specific propositions,—

First. That the president would enter into a negotiation with us, as the duly authorised and regularly accredited representatives of the Cherokees in reference to every matter mutually interesting to the United States and the Cherokee nation.

Second. To have a full and impartial examination of all means of information, for the purpose of ascertaining whether the Cherokee nation, in conformity with its political institutions and forms, long recognised by the United States, ever authorised the execution of the instrument signed at New Echota, and the additional articles signed at Washington, or ever gave them their sanction and ratification; or,

Third. That the instrument in question be now submitted for approval or rejection to the free and unbiased choice of the Cherokee nation.

To this communication we received for answer, from Mr.

Secretary Poinsett, on the 24th of March, that the president regarded himself as bound to carry into effect all the stipulations of the document in question, because it had been ratified according to the forms prescribed by the constitution, under a full knowledge of the considerations now urged against it, and must therefore be considered as the supreme law of the land. This being the case, he added that the second and third propositions could not be entertained, because they would involve an admission that the treaty was incomplete. In answer to the first proposition, we were promised a candid examination of any measure we should suggest, if not inconsistent with, or in contravention of, the determination to enforce the treaty against which we had protested.

It is due to Mr. Secretary Poinsett to say, that in accordance with his professions, every courtesy was extended to us in our intercourse with him. It may not be amiss, however, at this time to make one or two observations, upon the grounds taken by the government, and upon which it appears to have finally resolved to act.

In the first place it appears to us an extraordinary ground, that because a treaty has actually been made which the one party deems to be of perfect obligation upon both, that therefore no further official intercourse shall take place between the parties. It is obvious that the instrument in question is ambiguous, and of doubtful construction, and it is well known that objections have been made to it on behalf of the Western Cherokees, who think, and we think justly, that it most seriously impairs their rights, although we believe it has not *yet* been assumed that they are bound by its provisions, having not, thus far, at least, been considered as parties to it. There are questions still open between the parties, which, under any view of the case, it appears to us, can only be settled by negotiation and further treaty.

Secondly. It strikes us as equally extraordinary that because our avowed object was to make a treaty which should annul the provisions of this spurious compact, no negotiations would be opened with us. Had such a ground ever been presumed to present an obstacle to negotiation, why was it not discovered when the treaty of Holston, and every succeeding treaty ever formed with us, was under consideration. The stipulations of each and every of them, abrogate to a greater or less extent those which preceded it. How insuperably might it have been urged against the pretended treaty itself which professes to annul and abrogate pre-existing treaties, to annihilate public and private rights held under its sanction.

Thirdly. The idea that the ratification of the senate, under the circumstances, had at all impaired the rights of either party,

is equally incomprehensible. It was the act of one party alone. It was an act required by the constitution of the United States to give legal effect to a compact, which, until that was consummated, was inchoate and imperfect. But if no treaty had in fact ever been signed, if the instrument was in truth fraudulent or unauthorised, we are not aware that the action of the senate could make that valid which before was void, could impose any obligation upon us who were not previously bound. Indeed, if this doctrine be true to the extent it has been pressed, the Cherokee nation, or even their self-constituted representatives, need never have been consulted or their signatures obtained. The president himself might, of his own mere motion, dictate the terms of a treaty to the senate, and by the ratification of that body it becomes binding upon all who never saw or assented to it.

Fourth. But this doctrine, which we candidly confess to be beyond our comprehension, does not seem to our feeble intellects to have any bearing upon the question. For surely, if the president and senate are empowered to negotiate and make our treaties for us, without our assent or knowledge, it does not seem very clear how this power, in this particular so unlimited, can be prevented from at least listening to our objections, and at their good pleasure substituting one less offensive, if they please.

Fifth. In what we asked, we considered ourselves as calling upon the executive to do what it had once done under similar circumstances, and what, had it been prevailed upon to do in another, would have saved the expenditure of blood and treasure recently lavished in Florida. We do not pretend to be very profoundly versed in constitutional law, or in the diplomatic history of the Union, but we well know, that on the 12th of February, 1825, a treaty was executed between the United States and our neighbours, the Creeks, at the Indian Springs, which was duly ratified by the senate. We know that this treaty was disavowed by the Creek nation, and that circumstances occurred which produced bloodshed and threatened the most serious consequences. We know that that instrument was signed by individuals actually holding the situations among the Indians which they professed to hold, but that upon the allegation that they had acted without competent authority, and after the ratification by the senate, the then executive received and listened to the remonstrances of the nation, opened a new negotiation, executed a new treaty, which was submitted to the senate and received the ratification of that body. This last treaty, which may be found in the seventh volume of the laws of the United States (p. 782), contains this remarkable preamble.

"Whereas a treaty was concluded at the Indian Springs, on the 12th day of February last, between commissioners on the

part of the United States and a portion of the Creek nation, by which an extensive district of country was ceded to the United States :—

“ And whereas a great majority of the chiefs and warriors of the said nation have protested against the execution of the said treaty, and have represented that the same was signed on their part by persons having no sufficient authority to form treaties or to make cessions, and that the stipulations in said treaty are therefore wholly void :—

“ And whereas the United States are unwilling that difficulties should exist in the said nation which may eventually lead to an intestine war, and are still more unwilling that any cessions of land should be made to them, unless with the fair understanding and full extent of the tribe making such cession, and for a just and adequate consideration, it being the policy of the United States in all their intercourse with the Indians, to treat them justly and liberally, as becomes the relative situation of the parties.”

Such was the preamble of the treaty of January 24th, 1826 : the first article of which declared the previous treaty to be “null and void to every intent and purpose whatever, and every right and claim arising from the same is hereby cancelled and surrendered.”

These were historical facts with which we were familiar, and we had not been informed what had occurred since that period to prevent a similar action, under circumstances not similar only, because the case more imperatively demanded such action. We could not understand why the Creeks should be relieved from the burthen of an unjust and illegal because unauthorised compact, and we should be held to one even more destitute of any semblance of authority. We could not understand why if President Adams possessed the constitutional power to negotiate such an arrangement as we have just adverted to, how or why President Jackson or President Van Buren would transcend their legitimate functions by instituting an enquiry into the truth of our allegations, and laying the result of such investigation before the congress of the United States. Nor could we comprehend what there was so irregular or improper in our requests as to furnish a reason for debarring us from our accustomed official intercourse with the president or war department.

Here, therefore, rests our case at present. You will perceive that our only object has been to obtain a fair arrangement upon terms which our nation can approve, to be negotiated with persons whom they have authorised to act on their behalf. Our object has been an honest one and sincerely expressed. We had hoped that the government of the United States would listen to our representations. We know that they had been led by similar

false suggestions and fraudulent devices into the expenditure of four times the amount of money in attempting to settle their differences with the Indians by force of arms, which would have sufficed to accomplish all their desires without exasperation of feeling and without bloodshed. We asked that an instrument should not be called a treaty obligatory upon us, to which we never yielded directly or by implication, any assent. We asked that if we were to be driven from our homes and our native country, we should not also be denounced as treaty breakers, but have at least the consolation of being recognised as the unoffending, unresisting Indian, despoiled of his property, driven from his domestic fireside, exiled from his home, by the mere dint of superior power. We ask that deeds shall be called by their right names.

We distinctly disavow all thoughts, all desire, to gratify any feelings of resentment. That possessions acquired, and objects attained by unjust and unrighteous means, will, sooner or later, prove a curse to those who have thus sought them, is a truth we have been taught by that holy religion which was brought to us by our white brethren. Years, nay, centuries may elapse before the punishment may follow the offence, but the volume of history and the sacred Bible assure us, that the period will certainly arrive. We would with Christian sympathy labour to avert the wrath of Heaven from the United States, by imploring your government to be just. The first of your ancestors who visited as strangers the land of the Indian, professed to be apostles of Christ, and to be attracted by a desire to extend the blessings of his religion to the ignorant native. Thousands among you still proclaim the same noble and generous interest in our welfare; but will the untutored savage believe the white man's professions, when he feels that by his practices he has become an outcast and an exile? Can he repose with confidence in the declarations of philanthropy and universal charity, when he sees the professors of the religion which he is invited to embrace, the foremost in acts of oppression and of outrage?

Most sincerely and ardently do we pray that the noble example of William Penn may be more generally followed, and that the rich rewards which attended his exertions may be showered upon the heads of those who, like him, never outraged the rights or despoiled the property of the Indian. To such, among their highest earthly comforts, and among the assurances of still higher enjoyments hereafter, will be the blessing and prayer of the friendless native.

I have the honour to be, sir, most respectfully,

Your very obedient servant,

JNO. ROSS.

To _____.

DOCUMENTS

IN ILLUSTRATION OF, OR REFERRED TO IN, THE FOREGOING LETTER. .

Proceedings of the Cherokee Nation in General Council—assembled at Red Clay, September 28th, 1836.

Whereas: an instrument has been read and interpreted to us, purporting to be a treaty made at New Echota, on the 29th day of December, 1835, by the Rev. John F. Schermerhorn, commissioner of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians: ratified by the senate and approved by the president of the United States. And whereas: by the provisions of this instrument, all the lands of the Cherokees are ceded to the United States; the private improvements and possessions of individuals unjustly alienated from their rightful owners: the rights of the Cherokees as freemen wrested from the guardianship of their legitimate representatives, and the management of their affairs placed in the hands of individuals without responsibility and under the control of officers of the United States government: and whereas, the makers of said compact, who are represented as acting on the part of the Cherokees, and who assume the style of chiefs and headmen, hold no such title, or designation from the Cherokees, nor have they received authority from the nation to form said instrument—

Resolved, therefore, by the chiefs, national committee, and council, and the people of the Cherokee nation in General Council assembled: that the said instrument is null and void, and can never, in justice, be enforced upon our nation. And we do hereby solemnly disclaim and utterly reject said instrument in its principles and all its provisions.

Resolved: that a respectful memorial to the government of the United States be prepared on behalf of the Cherokee people, praying that the said instrument be set aside, as a fraud upon the government of the United States, and an act of oppression on the Cherokee people.

Resolved: that a delegation, consisting of John Ross, principal chief, Richard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, Stephen Foreman, and James Brown, be invested with full powers to represent the Cherokee people before the government of the United States: to enter into arrangements for the final adjustment of all their existing difficulties.

And be it further resolved: that the said delegation be, and they are hereby, instructed to confer with the Cherokees west of the Mississippi, on the subject of their acting in concert with us in our efforts to procure the rescinding of said instrument: which in its provisions is calculated to affect injuriously the interests and happiness of both parts of the Cherokee family.

Resolved: that any irresponsible individuals, assuming to themselves the power to act in the name of our nation, without the authority of the same first legitimately obtained, will be deemed guilty of infringing the prerogatives of the government, and violating the rights of the Cherokee people, who will assuredly never sanction such usurpation, nor acquiesce in the doings of such persons.

Resolved: that in the course we have adopted, in reference to the instrument in question, no departure from the most respectful and friendly feelings towards the president, the government, and the people of the United States is contemplated. But, on the contrary, our determination is to maintain and to cultivate those friendly relations which have long subsisted between the government and people of the United States and our nation.

And be it further resolved, by the committee and council aforesaid, with the concurrence of the people of the Cherokee nation, in General Council assembled,

that, in compliance with a law of congress, which directs that Indian annuities shall be paid to the chiefs or such persons as the tribe shall appoint; the aforesaid delegation, consisting of John Ross, principal chief, Richard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, Stephen Foreman, and James Brown, &c, and they are hereby, authorised under the direction of John Martin, the treasurer of the Cherokee nation, to apply to the government of the United States, or to the proper officers thereof, and to receive all sums of money due to said Cherokee nation east of the Mississippi, from the United States, and to receipt for the same, for, and on account of the said Cherokee nation.

Resolved: that the doings of the general council, now assembled, render the meeting of the national committee and council, on the second Monday in October next, inexpedient. The said meeting is, therefore, hereby dispensed with.

Red Clay Council Ground, Cherokee Nation East, Sept. 28, 1836.

Signed by the chiefs, committee and council, and people, to the number of about 2,245 male adults, and the following memorial annexed under their authority, to wit:

To the Honourable the Senate and House of Representatives of the United States of America.

Most respectfully and most humbly showeth: that your memorialists, the chiefs, national committee and council, and people, of the Cherokee nation, in general council assembled, solicit permission to approach your honourable bodies, under circumstances peculiar in the history of nations; circumstances of distress and anxiety beyond our power to express. We earnestly bespeak your patience, therefore, while we lay before you a brief epitome of our griefs.

It is well known, that for a number of years past, we have been harassed by a series of vexations, which it is deemed unnecessary to recite, in detail; but the evidence of which our delegation will be prepared to furnish.

With a view to bringing our troubles to a close, a delegation was appointed on the 23d of October, 1835, by the general council of the nation: clothed with full powers to enter into arrangements with the government of the United States, for the final adjustment of all our existing difficulties. The delegation failing to effect an arrangement with the United States commissioner, then in the nation, proceeded, agreeably to their instructions, in that case, to Washington city, for the purpose of negotiating a treaty with the authorities of the United States.

After the departure of the delegation, a contract was made by the Rev. John F. Schermerhorn and certain individual Cherokees, purporting to be a "Treaty, concluded at New Echota, in the state of Georgia, on the 29th day of December, 1835, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people, of the Cherokee tribe of Indians." A spurious delegation, in violation of a special injunction of the general council of the nation, proceeded to Washington city, with this pretended treaty; and by false and fraudulent representations, supplanted in the favour of the government, the legal and accredited delegation of the Cherokee people; and obtained for this instrument, after making *important alterations in its provisions*, the recognition of the United States government. And now it is presented to us as a treaty, ratified by the senate and approved by the president, and our acquiescence in its requirements demanded under the sanction of the displeasure of the United States, and the threat of summary compulsion in case of refusal. It comes to us, not through our legitimate authorities, the known and usual medium of communication between the government of the United States and our nation, but through the agency of a complication of powers, civil and military.

By the stipulations of this instrument, we are despoiled of our private possessions, the indefeasible property of individuals. We are stripped of every attribute of freedom and eligibility for legal self-defence. Our property may be plundered before our eyes. Violence may be committed on our persons: even our lives may be taken away and there is none to regard our complaints. We are denationalised! We are disfranchised! We are deprived of membership in the

human family! We have neither land nor home nor resting place that can be called our own. And this is effected by the provisions of a compact which assumes the venerated, the sacred appellation of Treaty. We are overwhelmed! Our hearts are sickened! Our utterance is paralised, when we reflect on the condition in which we are placed by the audacious practices of unprincipled men; who have managed their stratagems with so much dexterity as to impose on the government of the United States, in the face of our earnest, solemn, and reiterated protestations.

The instrument in question, is not the act of our nation. We are not parties to its covenants. It has not received the sanction of our people. The makers of it sustain no office or appointment in our nation, under the designation of chiefs, headmen, or any other title, by which they hold or could acquire authority to assume the reins of government, and to make bargain and sale of our rights, our possessions, and our common country. And we are constrained, solemnly, to declare, that we cannot but contemplate the enforcement of the stipulations of this instrument on us, against our consent, as an act of injustice and oppression, which we are well persuaded can never knowingly be countenanced by the government and people of the United States; nor can we believe it to be the design of those honourable and high-minded individuals, who stand at the head of the government, to bind a whole nation by the acts of a few unauthorised individuals. And, therefore, we, the parties to be affected by the result, appeal with confidence to the justice, the magnanimity, the compassion of your honourable bodies, against the enforcement on us of the provisions of a compact, in the formation of which we have had no agency.

In truth, our cause is your own. It is the cause of liberty and of justice. It is based upon your own principles, which we have learned from yourselves; for we have gloried to count your Washington and your Jefferson our great teachers. We have read their communications to us with veneration. We have practised their precepts with success. And the result is manifest. The wilderness of forest has given place to comfortable dwellings and cultivated fields—stocked with the various domestic animals. Mental culture, industrious habits, and domestic enjoyments, have succeeded the rudeness of the savage state. We have learned your religion also. We have read your sacred books. Hundreds of our people have embraced their doctrines, practised the virtues they teach, cherished the hopes they awaken, and rejoiced in the consolations which they afford. To the spirit of your institutions and your religion which has been imbibed by our community, is mainly to be ascribed that patient endurance which has characterised the conduct of our people under the lacerations of their keenest woes. For, assuredly, we are not ignorant of our condition: we are not insensible to our sufferings. We feel them! We groan under their pressure! And anticipation crowds our breasts with sorrows yet to come.

We are, indeed, an afflicted people! Our spirits are subdued! Despair has well nigh seized upon our energies! But we speak to the representatives of a Christian country; the friends of justice; the patrons of the oppressed. And our hopes revive, and our prospects brighten, as we indulge the thought. On your sentence our fate is suspended. Prosperity or desolation depends on your word. To you, therefore, we look! Before your august assembly we present ourselves, in the attitude of deprecation and of entreaty. On your kindness, on your humanity, on your compassions, on your benevolence, we rest our hopes. To you we address our reiterated prayers. Spare our people! Spare the wreck of our prosperity! Let not our deserted homes become the monuments of desolations! But we forbear! We suppress the agonies which wring our hearts, when we look at our wives, our children, and our venerable sires! We restrain the forebodings of anguish and distress, of misery and devastation and death, which must be the attendants on the execution of this ruinous compact.

In conclusion, we commend to your confidence and favour our well beloved and trustworthy brethren and fellow citizens, John Ross, principal chief, Richard Taylor, Samuel Gunter, John Benge, George Sanders, Walter S. Adair, Stephen Foreman, and James Brown, who are clothed with full powers to adjust all our existing difficulties, by treaty arrangements with the United States, by which our destruction may be averted, impediments to the advancement of our people

removed, and our existenee perpetuated as a living monument, to testify to posterity the honour, the magnanimity, the generosity of the United States. And your memorialists, as in duty bound, will ever pray.

Copy of a letter from the authorities of the Cherokee Nation to Brigadier General John E. Wool, September 30th 1836.

RED CLAY COUNCIL GROUND, CHEROKEE NATION, Sept. 30, 1836.

To Brigadier General John E. Wool, commanding U. S. A. in Cherokee Nation.

SIR—The undersigned chiefs and representatives of the Cherokee people, beg leave to address you as the commanding General, entrusted with the execution of the orders of the president of the United States, concerning the instrument purporting to be a treaty between the United States and the Cherokee nation east of the Mississippi; and have the honour to state that your communication of the 19th inst. to the Cherokee people respecting your instructions on the subject, was promptly read and interpreted to them in general council assembled. The result of their deliberations, and the expression of sentiments adopted by upwards of twenty-one hundred male adults on this occasion, the undersigned would also most respectfully communicate through you to the government of the United States, to wit: the chiefs, national committee and council, and the people of the Cherokee nation, in general council assembled, have resolved, that the instrument purporting to be a treaty made at New Eehota, on the 29th day of December, 1835, by John F. Scherinerhorn, commissioner of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians, is a fraud upon the government of the United States and an act of oppression on the Cherokee people—that those who are represented as acting on the part of the Cherokees, and who assume the style of “Chiefs and headmen,” hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument. Therefore said instrument is null and void, and can never in justice be enforced upon the nation, as they do most solemnly disclaim and utterly reject said instrument in its principles and all its provisions: that a respectful memorial to the government of the United States be prepared on behalf of the Cherokee people, praying that the said instrument may be set aside; that a delegation, consisting of John Ross, principal chief, Riehard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, James Brown, and Stephen Foreman, be and are appointed with full power to represent the Cherokee people before the government of the United States, and to enter into arrangements for the final adjustment of all their existing difficulties. That this delegation are instructed to confer with the Cherokees west of the Mississippi, on the subject of their acting for the interests and happiness of the whole Cherokee family;—that any irresponsible individuals, assuming to themselves the power to act in the name of the nation, without authority first legitimately obtained, will be deemed guilty of infringing the prerogatives of the nation, and violating the rights of the Cherokee people, who will assuredly never sanction such usurpation, nor acquiesce in the doings of such persons. That in the course they have adopted, in reference to the instrument in question, no departure from the most respectful and friendly feelings towards the president, the government, and people of the United States is contemplated. But, on the contrary, their determination is, to maintain and cultivate those friendly relations which have long subsisted between the government and people of the United States and their nation. That in compliance with a law of congress, which directs that “Indian annuities shall be paid to the chiefs or such person as the tribe shall appoint.” The above-named delegation have been authorised and appointed to receive from the proper officers of the government of the United States, all sums of money due the Cherokee nation east of the Mississippi, and to receipt for the same for and on account of the said Cherokee nation. That the doings of the general council, now assembled, render the meeting of the committee and council on the second Monday in October next, inexpedient, and said meeting is therefore dispensed with.

In thus frankly communicating the sentiments of the Cherokee people, and the doings of the general council, the undersigned beg leave to reassure you, that they are actuated from the purest motives and the most friendly feelings towards the public functionaries and the private citizens of the United States—that the only hope of the Cherokees for a further hearing from the government on the subject of their grievances, and for a more satisfactory and final adjustment of their existing difficulties, rests on the justice of their case, and the unremitting confidence entertained in the good faith, magnanimity, and justice of the president and the congress of the United States; and to realise which they desire, that the whole truth may be fairly stated respecting the manner and circumstances under which the instrument complained of was negotiated, and that the same may be fully understood and impartially investigated.

The Cherokees are deeply sensible of their peculiar and dependent situation, consequently they are not ignorant that their very existence as a people, is at the mercy of the United States, and subject to their will and pleasure. Their course is plain, and has ever been directed in the path of peace and friendship—though not influenced by the dastardly feelings of fear, but by those pleasing ties of confidence and social relations which have so long and so happily subsisted between them and their white brethren. Much may be said by way of objections in detail of the instrument in question, but it is deemed unnecessary. The natural interests and welfare of the whole Cherokee family, those in the east as well as those in the west, would require that, in any final arrangement, their approbation should be equally consulted, in order that harmony among themselves may be ensured; policy as well as common justice would seem to require this.

In conclusion, will you please to permit us to state, that, in compliance with the desire of the Cherokees of the Valley Towns, it is respectfully asked that their guns may now be restored to them, which have been surrendered up in compliance with your orders; as it is to be hoped there will not be found any necessity for retaining them longer.

The undersigned beg you to accept their cordial thanks and sincere regard for your honourable course in the discharge of your military duties here, and also for the gentlemanly deportment of the officers, and the orderly conduct of the soldiers under your command, during the sitting of the general council.

With great respect, they have the honour to be, sir,

Your obedient, humble servants,

John Ross, Principal Chief; George Laury, Assistant Principal Chief; Richard Taylor, Pres. N. Com.; Thomas Foreman, George Still, James Hawkins, Nahoolah, John F. Baldridge, Old Fields, Hair Conrad, Chunoolecheskee, James D. Wofford; Stephen Foreman, Clerk of N. Com.

Going Snake, Speaker, N. Council; Archibald Campbell, The Bark, Chunuhgee, Young Glass, Sleeping Rabbit, John Watts, James Spears, Sittewakce, Charles, Chuwalookee, John Wayne, White Path, John Otterfighter, Soft-Shell Turtle, Bean Stick, Walking Stick, Taquoh, Money Crier; Jesse Busheyhead, Clerk of N. Council.

GENERAL ORDER.—No. 74.

HEAD-QUARTERS, ARMY E. T. & C. N. FORT CASS, Nov. 3d, 1836.

I am instructed by the President of the United States, through the War Department, to make known to Mr. John Ross, and all others whom it may concern, that it is his determination to have the late Treaty, entered into between the United States and the Cherokee People, and ratified by the Senate, the 25th May, 1836, "religiously fulfilled in all its parts, terms and conditions, within the period prescribed," and that "no delegation which may be sent" to Washington "with a view to obtain new terms, or a modification of those of the existing treaty, will

be received or recognised, nor will any intercourse be had with them, directly or indirectly, orally or in writing;" and that the President regards the proceedings of Mr. Ross and his associates in the late Council held at Red Clay, "as in direct contravention of the plighted faith of their people, and a repetition of them will be considered as indicative of a design to prevent the execution of the Treaty, even at the hazard of actual hostilities, and they will be promptly repressed."

It is further made known by instructions from the War Department, that "if any of our citizens enter the Cherokee country and incite opposition to the execution of the treaty," "they will be proceeded against according to the laws of the State, if any exist on the subject, in which they may enter;" and if there should be "no law of the State which can be brought to bear on them, and under which they may be removed," "it is the opinion of the President," as expressed through the War Department, "that they may be removed" out of the country, "under the 6th article of the treaty," in which the United States guarantee that the Cherokees shall be "protected against interruption and intrusion from citizens of the United States who may attempt to settle in the country," unless it is with the express consent "of the Committee who are acting under the 12th Article of the Treaty, and by the terms of that Article they alone are authorised to give it."

All officers of the Army, whether commanding Volunteers or Regular Troops, under my command, are required and directed to make known to all persons residing, or who may come within the range of their respective commands, the contents of this order. And to make diligent search and enquiry in regard to all citizens who may enter the Cherokee country, and incite opposition or interfere with the due execution of the treaty, and report their names and places of residence without delay, to General Head Quarters, in order that they may be proceeded against, according to the laws of the country, and the instructions of the President of the United States. They are also required and directed to prevent all meetings and to break up all Councils coming to their knowledge, assembled in the Cherokee country, for the purpose of opposing the treaty, or discussing its non-execution.

JOHN E. WOOL,
Brigadier General Commanding.

Credentials, &c. of the Cherokee Delegates from the Western Cherokees—A Copy—(the original in the Office of Indian Affairs.)—

8th December, 1836.

Whereas, the instrument purporting to be a treaty made at New Echota, on the 23rd day of December, 1835, by Gen. Wm. Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen and people of the Cherokee tribe of Indians, ceding to the United States all the lands owned, claimed or possessed by the Cherokee nation, east of the river Mississippi, and providing for their removal to the country designated and set apart for the Cherokees, west, under former treaties: And, whereas, the chiefs, national committee and council, and the people of the Cherokee nation, east, in general council, assembled at Red Clay, on the 28th of September, 1836, have solemnly declared, that the makers of said compact, who are represented as acting on the part of the Cherokees, and who assume the style of chiefs and headmen, hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument: And, therefore, disclaim and utterly reject the same in its principles and all its provisions.

And, whereas, a delegation have been appointed to make a respectful memorial to the government of the United States, in behalf of the Cherokee people, praying that the said instrument be set aside as a fraud upon the government of the United States, and an act of oppression on the Cherokee people; and invested with full powers to enter into arrangements for the final adjustment of all their difficulties.

And, whereas, said delegation have, in pursuance of their instructions, conferred with us on the subject of our acting in concert with them in their efforts to procure the rescinding of said instrument, which, in its provisions, is calen-

lated to affect, injuriously, the interests and happiness of both parts of the Cherokee family—

Therefore, Resolved, by the chiefs, committee and council of the Cherokee nation, west of the Mississippi river, in council assembled, that the course adopted by the general council of the Cherokee nation, east, in regard to the instrument aforesaid, is hereby approved—and, inasmuch as said instrument being equally objectionable to us, and will, in its enforcement, also affect our best interests and happiness—

Resolved, That a delegation, consisting of John Looney, third chief, John Dun, Joseph Vann, Aaron Price, and Dutch, be, and they are hereby appointed to represent the Cherokee nation, west, before the government of the United States, and to co-operate with the delegation from the east of the Mississippi, consisting of John Ross, Samuel Gunter, James Brown, John Binge, George Sanders and others, in their exertions to procure the rescinding of the aforesaid instrument; and also, with full powers to unite with the delegation aforesaid, in any treaty arrangement which they may enter into with the government of the United States, for the final adjustment of the Cherokee difficulties, and to promote the advancement of the best interests and happiness of the whole Cherokee people; and to do all things touching the affairs of the Cherokees, west, for their welfare.

Be it further Resolved, That the delegation aforesaid be, and they are hereby authorised to receive from the chiefs all the public moneys in their hands, to defray their expenses; and also to draw on the government of the United States for the annuities, or such other sums of money as may be necessary to defray the expenses of said delegation.

Cherokee Council House, Tolluntusky, west of the river Mississippi, Dec. 8th, 1836.—Signed by the Committee and Council of the Cherokee nation, west.

GEORGE GUESS, his \times mark.	DUTCH, his \times mark.
TOBACCO WILL, his \times mark.	CHARLES CAMPBELL, his \times mark.
AARON PRICE, his \times mark.	JAMES CAREY, his \times mark.
JOHN ROGERS, his \times mark.	GEORGE BREWER, his \times mark.
WILLIAM ELDERS, his \times mark.	CLIMBING BEAR, his \times mark.
CHARLES ROGERS, his \times mark.	JOHN DREW.
MAJOR PULLUM, his \times mark.	

Approved and signed by the chiefs of the Western Cherokee nation.

JOHN JOLLY, his \times mark, 1st chief.
JOHN BROWN, 2d chief.
JOHN LOONEY, his \times mark, 3d chief.

The Cherokee Delegation to the Honourable Secretary of War,
13th February, 1837.

WASHINGTON CITY, at Mrs. Arguelles', Feb. 13, 1837.

Hon. B. F. Butler, Secretary of War.

Sir—The undersigned delegates, duly authorised, and representing the Cherokee nation east and west of the Mississippi, present their compliments to the Hon. Secretary, and beg leave, through his department, to notify the government of their arrival in the city, on business relative to the interests of the whole Cherokee people, and will be happy to do themselves the honour of paying their personal respects to the Honourable Secretary, and His Excellency the President, at such time as may be convenient and their pleasure to designate.

Very respectfully, your obedient servants,

JOHN ROSS,	DUTCH, his \times mark.
JOHN LOONEY, his \times mark.	SAMUEL GUNTER, his \times mark.
R. TAYLOR,	JOHN BENG, his \times mark.
AARON PRICE, his \times mark.	GEORGE SANDERS, his \times mark.
JAMES BROWN,	W. S. COODEY.

The Cherokee Delegation to the Honourable Secretary of War,
22d February, 1837.

WASHINGTON CITY, February 22d, 1837.

Hon. Benj. F. Butler, Secretary of War, ad interim.

Sir—The undersigned, a delegation duly authorised by and representing the Cherokee nation on the east and west of the Mississippi, did themselves the honour, on their arrival at this city, to apprise you of the circumstance in the same manner that they have been accustomed to do. To their note of the 13th inst. they have not yet received an answer. May we be again permitted to bring the matter to your notice, and to inform you, that, in addition to other matters to which their powers extend, and which are very comprehensive, they are especially charged with the subject of the money payable to the nation.

We have the honour to be, sir, very respectfully,

Your obedient servants,

JOHN ROSS,	DUTCH, his ✕ mark.
JOHN LOONEY, his ✕ mark.	JOHN BENG, his ✕ mark.
R. TAYLOR,	GEORGE SANDERS, his ✕ mark.
AARON PRICE, his ✕ mark.	W. S. COODEY.
JAMES BROWN,	

The Memorial and Petition of the Cherokee Delegation to the Senate and House of Representatives in Congress assembled,
February 22d, 1837.

To the Honourable the Senate and House of Representatives of the United States, in Congress assembled.

The memorial and petition of the undersigned, a delegation appointed by the Cherokee nation in full council, respectfully sheweth—

That the Cherokee nation, deeply sensible of the evils under which they are now labouring, and the still more frightful miseries which they have too much reason to apprehend, have, in the most formal and solemn manner known to them, assembled in general council, to deliberate upon their existing relations with the government of the United States, and to lay their case with respectful deference before your honourable bodies.

Invested with full powers to conclude an arrangement upon all the matters which interest them, we have arrived at the seat of government, and in accordance with our usual forms of proceeding, have notified the honourable the secretary of war that we had reached this place, and through him solicited an interview with the executive. This request has not yet been granted, nor has it to this day received an official answer; but we have reason to apprehend, from circumstances which have reached us, that we shall be denied this application, and are thus compelled, in the discharge of our duty to our constituents, to submit to your honourable bodies the memorial of which we are the bearers.

On former occasions we have in much detail laid before you the prominent facts of our case. We have reminded you of our long and intimate connection with the United States, of the scenes of peril and of difficulty which we have shared in common; of the friendship which had so long been generously professed and affectionately and gratefully accepted; of the aids which were supplied us in promoting our advancement in the arts of civilised life; of the political principles which we had imbibed, of the religious faith we have been taught.

We have called your attention to the progress which, under your auspices, we have made; to the improvements which have marked our social and individual state; our lands brought into cultivation, our natural resources developed, our farms, work-shops, and factories approximating in character and value to those of our brethren whose example we had diligently imitated.

A smooth and beautiful prospect of future advancement was open before us. Our people had abandoned the pursuits, the habits and the tastes of the savage,

and had put on the vestments of civilisation, of intelligence, and of a pure religion. The progress we had made furnished us with the most assured hopes of continued improvement, and we indulged in the anticipation, that the time was not far distant when we should be recognised on the footing of equality by the brethren from whom we had received all which we were now taught to prize.

This promise of a golden sunshine is now overspread. Clouds and darkness have obscured its brilliancy. The winds are beginning to mutter their awful forebodings; the tempest is gathering thick and heavy over our heads, and threatens to burst upon us with terrific energy and overwhelming ruin.

In this season of calamity where can we turn with hope or confidence? On all former occasions of peril or of doubt, the government of the United States spread over us its broad and paternal shield. It invited us to seek an asylum and a protection under its mighty arm. It assisted us with its encouragement and advice; it soothed us with its consoling assurances; it inspired us with hope, and gave us a feeling of confidence and security.

But, alas! this, our long-cherished friend, seems now to be alienated from us; this, our father, has raised his arm to inflict the hostile blow: this strength, so long our protection, is now exerted against us, and on the wide scene of existence no human aid is left us. Unless you avert your arm we are destroyed. Unless your feelings of affection and compassion are once more awakened towards your destitute and despairing children, our annihilation is complete.

It is a natural enquiry among all who commiserate our situation, what are the causes which have led to this disastrous revolution,—to this entire change of relations? By what agency have such results been accomplished?

We have asked, and we reiterate the question, how have we offended? Show us in what manner we have, however unwittingly, inflicted upon you a wrong; you shall yourselves be the judges of the extent and manner of compensation. Show us the offence which has awakened your feelings of justice against us, and we will submit to that measure of punishment which you shall tell us we have merited. We cannot bring to our recollections any thing we have done, or any thing we have omitted calculated to awaken your resentment against us.

But we are told that a treaty has been made, and all that is required at our hands is to comply with its stipulations. Will the faithful historian, who shall hereafter record our lamentable fate, say the Cherokee nation executed a treaty by which they freely and absolutely ceded the country in which they were born and educated,—the property they had been industriously accumulating and improving,—and, abandoning the high road by which they had been advancing from savagism, had precipitated themselves into worse than their pristine degradation? Will not the reader of such a narrative require the most ample proof before he will credit such a story? Will he not enquire where was the kind and parental guardian who had heretofore aided the weak, assisted the forlorn, instructed the ignorant, and elevated the depressed? Where was the government of the United States with its vigilant care over the Indian when such a bargain was made? How will he be surprised at hearing that the United States was a party to the transaction—that the authorities of that government, and the representatives of that people, which had for years been employed in leading the Cherokee from ignorance to light, from barbarism to civilisation, from paganism to Christianity,—who had taught them new habits and new hopes, was the very party which was about to appropriate to itself the fruits of the Indian's industry, the birth places of his children and the graves of his ancestors!

If such a recital could command credence, must it not be on the ground that experience had shown the utter failure of all the efforts, and the disappointment of all the hopes of the philanthropist and the Christian? That the natives of this favoured spot of God's creation were incapable of improvement, and unsusceptible of education,—and that they, in wilful blindness, spurning the blessings which had been proffered and urged upon them, would pertinaciously prefer the degradation from which it had been attempted to lead them, and the barbarism from which it had been sought to elevate them?

How will his astonishment be augmented when he learns that the Cherokee people almost to a man denied the existence and the obligation of the alleged

compact—that they proclaimed it to have been based in fraud and concocted in perfidy—that no authority was ever given to those who undertook in their names and on their behalf to negotiate it;—that it was repudiated with unexampled unanimity when it was brought to their knowledge;—that they denied that it conferred any rights or imposed any obligations.

Yet such must be the story which the faithful historian must record. In the name of the whole Cherokee nation we protest against this unhallowed and unauthorised and unacknowledged compact. We deny its binding force. We recognise none of its stipulations. If contrary to every principle of justice it is to be enforced upon us, we shall at least be free from the disgrace of self-humiliation. We hold the solemn disavowal of its provisions by eighteen thousand of our people.

We, the regularly commissioned delegation of the Cherokee nation, in the face of Heaven, and appealing to the searcher of all hearts for the truth of our statements, ask you to listen to our remonstrances. We implore you to examine into the truth of our allegations. We refer you to your own records—to your own agents, to men deservedly enjoying your esteem and confidence, as our witnesses; and we proffer ourselves ready, if you will direct the enquiry, to establish the truth of what we aver. If we fail to substantiate our statements, overwhelm us with ignominy and disgrace,—cast us off from you for ever. If, however, on the other hand, every allegation we make shall be sustained by the most convincing and abundant proof, need we make further and stronger appeals than the simple facts of the case will themselves furnish, to secure your friendship, your sympathy, and your justice.

We will not and we cannot believe, after the long connection that has subsisted between us—after all that has been done, and all that has been promised, that our whole nation will be forcibly ejected from their native land and from their social hearths without the pretence of crime, without charge, without evidence, without trial: that we shall be exiled from all that we hold dear and venerable and sacred, and driven into a remote, a strange, and a steril region, without even the imputation of guilt. We will not believe that this will be done by our ancient allies, our friends, our brethren. Yet, between this and the abrogation of the pretended treaty, there is no medium. Such an instrument, so obtained, so contaminated, cannot cover the real nature of the acts which it is invoked to sanction. If we are thus to suffer, no disguise can be useful or availing. If power is to be exerted, let it come unveiled. We shall but submit and die.

If, however, as our long experience has taught us to hope, we yet retain any hold upon your sympathies and claims upon your justice; if, entertaining doubts as to the truth of our statements, you will investigate before you determine, and enquire before you decide such momentous questions, irrevocably and for ever, we entreat delay until the subject shall be fully and fairly examined. You will constitute the enquiring power—you will be the tribunal to judge upon the whole matter. You can, at any time, carry into execution your own decisions. Without the means of resistance, without the disposition in any way to injure you, we shall yield to what you shall ultimately determine to be a just and righteous judgment.

Should the result of your investigations sustain our assertions, and you should stay your hand already uplifted against us, we are clothed with full powers to make an arrangement of every subject of difference, and to negotiate a treaty obligatory upon our nation, and competent to secure to the people of the United States all which their own sense of justice will lead them to require.

May we not indulge the confident assurance that, as you can sustain no injury by this delay, the present execution of the alleged treaty may at least be suspended;—that, as investigation will tend only to elicit the whole truth, it may be promptly and efficiently made;—that, as a liberal justice has marked your intercourse with us, nothing will be required of us which is not thus sanctioned. If this be granted to us, the grateful prayers of a united and rescued nation will be daily presented before the throne of Divine mercy, invoking upon your heads

the choicest blessings of heaven, perpetuity upon your institutions, and every happiness upon your people.

Washington City, February 22d, 1837.

(Signed) JOHN ROSS,
R. TAYLOR,
JAMES BROWN,
SAMUEL GUNTER, his ✕ mark.
GEORGE SANDERS, his ✕ mark.
JOHN BENGE, his ✕ mark.

Delegates from the Eastern Cherokees.

JOHN LOONEY, his ✕ mark. WILLIAM DUTCH, his ✕ mark.
AARON PRICE, his ✕ mark. WILLIAM S. COODEY.

Delegates from the Western Cherokees.

B. F. Butler, Secretary of War, ad interim, to the Cherokee Delegation—24th February, 1837.

WAR DEPARTMENT, February 24th, 1837.

Gentlemen—In answer to your letters of the 13th and 22d inst. I have the honour to inform you, that, as the president does not recognise you in any such official character as that described in your communications, no interview can be had with you in that character, either by him or by the department.

Should you think proper, as individuals, to call at the department, it will give me pleasure to meet you; and any suggestions you may make, in that character, and which it may be proper for the department to consider, will receive due consideration.

Very respectfully,
Your most obedient servant,
(Signed) B. F. BUTLER,
Secretary of War, ad interim.

To Messrs. JOHN ROSS, JOHN LOONEY and others, Washington City.

*The Cherokee Delegation to the Hon. Secretary of War,
28th February, 1837.*

WASHINGTON, February 28th, 1837.

Hon. B. F. Butler, Secretary of War, ad interim.

Sir—We had the honour, yesterday, to receive your communication under date of the 24th inst.

We are filled with surprise at learning that, as the president does not recognise us in the official character described in our communications, an interview with us is declined by the executive. From the earliest periods of our mutual history, the Cherokee nation has been accustomed to transact its business with the government of the United States through the medium of delegations. Some of us have long been known to the executive as having constituted parts of those delegations, and this is the first instance in which such an interview as was asked has been denied.

We are utterly unable ourselves to conjecture, and shall be equally at a loss to inform our nation, upon our return, what has led to this determination of the president. It surely must originate in some misapprehension on the one side or the other.

We cannot believe, without the most explicit declaration to that effect, that the executive has resolved to receive no further communications from, or to transact no further business with, our nation. It is difficult to believe, without similar assurances, that the mode of communication, for so long a period sanctioned by both parties, is to be changed without some other channel of intercourse being substituted. Nor can we believe that the executive can have declined the interview on account of any deficiency or irregularity in our powers—all is in conformity with our long-established usages—all is in accordance with the practice which has so long prevailed.

May we, therefore, hope that you will be pleased to apprise us of the objections which exist to our recognition, that if any misapprehension as to facts exists, it may be rectified; if any irregularity, on our side, has been committed, it

may be cured; and that we may be enabled to inform our people, on our return, of the true nature and extent of the difficulties which intercept their accustomed friendly intercourse with the president.

Your last suggestion, of a disposition to see us at the department, in our individual character, has been considered. Our nation has protested against the interference of unauthorized individuals between them and the government of the United States. They regard this as the fruitful source of the evils under which they now suffer; and, guided by their instructions, and anxious to conform to their wishes, we are compelled, reluctantly, to decline any other than an official interview with the department.

Very respectfully,

Your obedient servants,

JOHN ROSS.

JOHN LOONEY, his \swarrow mark.

R. TAYLOR.

JAMES BROWN.

SAMUEL GUNTER, his \swarrow mark.

JOHN BENGE, his \swarrow mark.

GEORGE SANDERS, his \swarrow mark.

AARON PRICE, his \swarrow mark.

WM. DUTCH, his \swarrow mark.

W. S. COODEY.

Hon. B. F. Butler, Secretary of War, ad interim, to the Cherokee Delegation—March 11th, 1837.

WAR DEPARTMENT, March 11th, 1837.

Gentlemen—The press of business connected with the termination of the session of congress, has prevented an earlier reply to your letter of the 28th ultimo.

In your letters of the 13th and 22d ultimo, you described yourselves as a delegation duly authorised by, and representing, “*The Cherokee nation, east and west of the Mississippi.*” The official character, thus claimed, the president could not recognise, for the following reasons:—

1. All the relations existing between the United States and the Cherokee nation, *east of the Mississippi*, are defined and settled by the treaty made with that part of the nation, and ratified by the president and senate in May, 1836, and the provisions of previous treaties not inconsistent therewith. Since the conclusion of that treaty, nothing remains for discussion with that part of the nation, except such matters as belong to the execution of the treaty; and, in regard to all such matters, the twelfth article of the treaty appoints a committee of twelve persons to transact the same on the part of the Indians.

2. The relations existing between the United States and the Cherokee nation, *west of the Mississippi*, are also defined and settled by certain treaty provisions; and, though delegations may, from time to time, be authorised to act for that part of the nation, yet, in the present posture of affairs, no such delegation as yours was described to be—that is—a delegation professing to represent the nation on *both* sides of the Mississippi, to the exclusion of the committee above referred to, can be recognised.

3. The claim to the official authority described in your letters, when taken in connection with the fact, that some of your number have denied the fairness and validity of the late treaty, and have taken measures to defeat its execution, made it improper, in the judgment of the president, to recognise you in such character, unless he was willing to re-open the discussions settled by the treaty. This, as you well know, he had previously decided, could not be done. In order, therefore, to avoid useless and irritating discussions, as well as from a deliberate sense of duty, he was constrained to give me the direction stated in my letter.

I forbear to enlarge on topics, the discussion of which cannot be productive of any good; and will, therefore, merely repeat the assurance, that any suggestion you may have occasion to make, as individuals, or any business you may be authorised to transact, consistently with the treaty stipulations existing between the United States and the Cherokee people, will receive a prompt and liberal consideration.

Very respectfully, your most obedient servant,

B. F. BUTLER,

Secretary of War, ad interim.

Messrs. JNO. ROSS and others, Washington City.

*Copy of a Letter to the Hon. Joel R. Poinsett, Secretary of War—
March 16th, 1837.*

WASHINGTON CITY, March 16th, 1837.

Hon. Joel R. Poinsett, Secretary of War.

Sir—The undersigned representatives of the Cherokee nation, east and west of the river Mississippi, beg leave, herewith, to lay before you their credentials: and, also, to submit, through your department, the enclosed communication for the consideration of the president of the United States. Trusting, from the importance of the subject, that a reply, embracing the decision of the executive, will be returned as soon as practicable.—With great respect, we have the honour to be, sir,

JNO. ROSS.

R. TAYLOR.

JAMES BROWN.

SAMUEL GUNTER, his \bowtie mark.

JOHN BENGE, his \bowtie mark.

Your obedient servants,

GEORGE SANDERS, his \bowtie mark.

JOHN LOONEY, his \bowtie mark.

AARON PRICE, his \bowtie mark.

Wm. DUTCH, his \bowtie mark.

W. S. COODEY.

Address of the Cherokee Delegation to the President of the United States—16th March, 1837.

To the President of the United States.

Sir—The people constituting the Cherokee nation, beg leave to congratulate you on your accession to the lofty and dignified situation which you have been called upon, by your countrymen, to fill. That this event may prove, under the blessing of Providence, equally beneficial to those over whom you now preside, as honourable to the individual upon whom so valued a trust has been reposed, is our most earnest and sincere prayer.

Among those who have been placed under your protecting influences, may we not be permitted to number ourselves, and may we not be allowed, after the manner of our fathers, to address the president of the Union, as their guardian and their friend, as holding in his hands the equal scales of justice and the power to enforce his decisions.

It is in this character that the Cherokee nation venture to approach the executive, to ask for a hearing; that their claims be investigated, and that such measure of justice be meted to them as shall appear to be due. Beyond this they have nothing to ask; within these limits they will not indulge an apprehension that they shall meet with a refusal.

The undersigned have been, in full council of the nation, appointed a delegation to confer with the executive; they are clothed with powers to open negotiations and to adjust, upon the most liberal terms, all the subjects in which the United States take an interest.

The government has been apprised, in part, of the insuperable objections to the acknowledgment, by the nation, of the (so called) treaty, submitted to the senate for its ratification in 1836. If you will listen to us, we will briefly refer to some of them; and we beg your excellency to understand us, in this matter, as speaking what we believe to be the feeling and language of more than nine-tenths of our nation.

The individuals who now address you as the representatives of the Cherokee nation are, in a degree, the same who, under a similar authority, came to the seat of government during the latter part of the year 1835, for the purpose of executing the same duties with which they are now charged. The circumstances which induced them thus to visit Washington, are detailed in their memorial to the senate during its then session. Subsequent to the annunciation of their plan of operations, an individual hastened on in advance of them, and returned, with great rapidity, the bearer of communications expressive of the wish of the executive, that we should abandon this case, and negotiate in the nation

itself. Apprehensive of some misunderstanding on the subject, and finding it too late to institute a new plan of operations, we proceeded on our journey, and reached the seat of government.

Our reception was kind, and we were acknowledged to be entitled to the character which we claimed to possess. Our credentials were exhibited, and in an official interview with the president, we were informed by him, that whenever we should present any proposition for the consideration of the government, through the war department, it should be immediately attended to.

While engaged in preparing our communications, in pursuance of this proffer, we learned that intelligence had been received that a treaty had in fact been entered into at New Echota. It was from this period that our troubles began to assume a more positive character. To this instrument, subsequently received, and, after many most material changes in its substantial provisions, submitted to the senate for its ratification, are we to attribute the distress under which our nation now labours, and the dangers which impend over us.

The Cherokee nation never authorised the formation of this spurious compact. They never conferred upon the individuals who signed it any authority to give it their assent. They have never recognised its validity, and never can. They have protested against it as a fraud upon themselves, and upon the United States. They have proffered themselves able to establish all these allegations by the most abundant proof. They ask of you, sir, that these allegations be examined fully, and by impartial evidences, enjoying your entire confidence. By the results of such an investigation, by your own judgment upon the fairness, the justice, the legality of this act, and the proceedings connected with it, they must necessarily abide. Will the government of the United States claim the right to enforce a contract thus assailed by the other nominal party to it? Will they refuse to examine into charges of such grave import? Will they act in matters so momentous, involving consequences so awful, without inquiry? The memorials we have so fondly cherished, of the affectionate feelings, the pure virtue, the justice which have been exhibited towards our people, by Washington, by Jefferson and others, your honoured predecessors, the faith of the government, so repeatedly and so solemnly pledged to our fathers and ourselves, the sanctions of that holy religion which you have taught us, in which we have learned so to do unto others as we should wish them to do unto us; all forbid us to apprehend that the United States will knowingly and deliberately wrong those who have aided them in their hour of peril; who have leaned upon their protecting arm; who have confided in their friendship; who have trusted every thing to their honour and their justice.

On such an occasion as the present, we shall not intrude upon your valuable time by presenting in detail all the circumstances upon which the Cherokee nation rest their objections to the paper called the Treaty of New Echota. At the same time we feel it a duty we owe to you, as well as to ourselves, not to leave this matter resting upon generalities, however strong, without some degree of specification.

I. We aver that the Cherokee nation never authorised its formation.

In all negotiations with ourselves, and we believe every other Indian nation, the government of the United States have conducted them with the regularly authorised agents of the other party. The internal arrangements of our nation, by which certain persons are clothed with powers to represent and act for the whole, have been long known and constantly recognised. No government has ever claimed the right to pass by the regular representatives of another people, to carry on negotiations with any who may claim, without exhibiting full authority from those whom they profess to represent, and whom they undertake to bind.

In this instance, those who were regularly invested with this authority, were at Washington. The initiatory steps had been taken to commence negotiations. Were the powers which had been given, and which were then in the act of being exercised, ever revoked or superseded? We have never heard of any such proceeding. All that we have heard, and all that we have seen, negatives such an idea. The letter from Mr. Secretary Cass, of January 16, 1836, which announces to us that Mr. Schermerhorn had reported the formation of the treaty, is addressed to us in our official character. The letter of the 13th February ap-

prises us, for the first time, that this official character cannot be recognised. If the proceedings at New Echota were not, in fact, the authoritative proceedings of the nation, they must be disregarded as inadequate to operate a cancellation of our powers.

Admitting, however, for a moment, that these proceedings were regular, the parties who came on as delegates under the council at New Echota, on the 6th February, 1836, address a letter to the Cherokee delegation now in Washington City, in which they speak of "your constituents at home," and in which they assure us that "in doing what the people have done at New Echota, it was with no view to lay any obstacles in your way." In a subsequent passage they say, "We assure you of the heartfelt satisfaction that it would give us, and certainly our constituents, if you have settled, or *can settle*, our difficulties with the government, by a treaty." Still further, "We are instructed, in case that you have not already made, or are able to make, a better;" and they conclude with a proffer of any assistance in their power, to those whom they address.

It would be difficult to gather, from this communication, the fact that "our constituents" had revoked the powers which had been previously given. The continuance of them is expressly recognised.

The letter of E. Herring, of February 13, 1836, which first informs us that our official character is denied, places such denial upon the single ground of our having come on to Washington after being notified by the president that a delegation would not be received in Washington. We were also informed, by the secretary, that Mr. Schermerhorn had contemplated bringing a delegation from the other Indians of the Cherokee nation, but that he had instructed him not to bring on a single person. To us, not very conversant with such matters, and to whom this species of difficulty was equally unknown and unexpected, it wore the appearance of singularity that, notwithstanding the proposition to Mr. Schermerhorn, he did, in fact, bring with him what purported to be a delegation; that they were received as such; and that, although Mr. Herring, in his letter of the above date, appears to draw a distinction between their case and our own, that they were sent on to effect a ratification, and not to make a new treaty; yet when, by the absolute refusal of the president to recognise some of the most prominent provisions in that instrument, and in reference to which the council, from which they received their authority, had been so distinct in the expression of their views, and in which the commissioner did not appear to think he had transcended his powers, so that it became necessary, in fact, to make, substantially, a new arrangement, these objections were all permitted to sleep, so far as regards them. Even in relation to those who held the first authority, the ground was changed in the very same letter of Mr. Herring, who informed us that, provided we would sign the treaty, as it then was, we also should be recognised.

If, under all these circumstances, we have been unable distinctly to understand the views of the government, or to reconcile all their proceedings with what appeared to us to be their language, the whole difficulty ought not to be attributed to any deficiency on our part.

In point of fact, however, the meeting at New Echota did not fully represent the Cherokee nation. Statements have been made, from different sources, showing the number there present. The largest number, including men, women, and children, Indians and negroes, does not exceed seven hundred; while highly respectable witnesses positively aver, that not more than three hundred were assembled, and only seventy-nine approved of what was done. In determining whether such an instrument imposes on the Cherokee nation the obligation of performing its stipulations, surely it is important to understand by how many it was sanctioned, and by what authority they undertook to bind others who were not professed parties. The very manner in which these proceedings purport to be verified are so singular to our eyes—so different from what has been customary on similar occasions, that this circumstance alone is calculated to awaken suspicion, and to strengthen our statements.

Sustained, however, as we are, we unhesitatingly assert the fact, that less than one hundred individuals, of the Cherokee nation, irregularly convened, and acting irregularly, ever sanctioned this instrument, so far as even to assent to the appointment of the individuals by whom it was signed.

This we consider as not only unjust to us, but equally so to the United States. In the instructions given to the commissioners it is expressly stated, that although there can be no objection to a free interchange of opinion, and a conditional arrangement on all disputed points between them and a committee, fairly and publicly chosen, should the Cherokees think it proper to commit the details, in the first instance, to such a committee; but the *final action* upon the subject must be had by the people themselves in open council. "If there is any dispute as to the decision of the majority, an actual census will be taken of the persons present, exhibiting their names; and they will pass before the commissioners and state whether they are in favour of or against the arrangement proposed; and this census, together with the result, will be certified by the commissioners, and transmitted with their other proceedings to the seat of government." In a previous communication made by these same commissioners to one of the undersigned, as the "*principal chief Cherokee nation*," it was distinctly asserted, that "the commissioners, in their instructions, are required to obtain the consent of a majority of your headmen and warriors to a treaty to make it valid, and for this purpose it is necessary to have an accurate census of the nation taken now." In the address of the president on the 16th of March, 1835, to the nation, we were given to understand, that with the nation at large rested the power of ultimately acceding to or not the proposed terms. It was the understanding of this delegation and of the nation, that this course should be pursued, and the very notice under which the council at New Echota was convened, called upon the individuals of the nation to act for themselves in the business,—and implied the right of the nation collectively to assent to or dissent from the terms proposed.

If after all this public and mutual understanding, an instrument, which originated in a meeting where not one-twentieth part of the nation was convened, most essentially varied after having been submitted to their inspection, and ultimately approved only by the small number who actually affixed their signatures to it, can be considered obligatory upon the whole Cherokee nation, upon the same principles another compact which we may choose to sign with any twenty citizens of the United States, holding no public station, authorised by no national act, might, had we the power, be enforced against you to the extent of stripping every citizen of his home and of his property.

II. Nor can there be any foundation for the belief that the Cherokee nation have ever assented to the instrument in question, by any subsequent act which could be considered as a ratification. The whole nation had been led to believe from the official language addressed to them, that whatever might be done by any of their agents, would not be held obligatory until it had received the approbation of the nation. Not only has no such sanction ever been obtained, but it has never been asked at their hands. So far from this being the case, every means has been resorted to, to stifle the expression of public opinion among them. A large body of troops has been stationed in the Cherokee nation, prepared to put down any meeting convened to deliberate upon the subject. The commanding general, whose high character is a guaranty that he is acting in obedience to precise instructions, in his general order of November 3, 1836, has, in terms too plain and significant to be misunderstood, apprised us of the consequences which will follow any attempt to ascertain and concentrate the opinions of our people. Several instances have already occurred in which arrests have been made of individuals supposed to be inimical to the treaty, as it is called. In short, the whole weight and influence of the government has been exerted to aid the small faction which has usurped the right to bind us, to alarm the timid, to overpower the resolute, to persuade the confiding, to compel the weak among us to give their sanction to this instrument:—with what success the government of the United States has been apprised. We hold in our hands a document showing that the great bulk of the nation has repudiated the measure—that it denies its obligatory force—that it refuses to ratify the act. Within a few weeks, since the undersigned have been at the seat of government, at a special meeting of the nation, held at New Echota, convened by the agent and held in the presence of the commanding general, when the question was presented for their decision as to the disposition to be made of the money due the nation, under former treaties, it was found that but ninety-seven votes could be procured in favour of the indi-

viduals who had assumed to act as the agents and representatives of the nation, and of this small number no one voted in the regular way and upon the ground; while twelve hundred and sixty-nine gave their votes against this party. Such, as we are informed, was the result of the meeting on the 15th ultimo.

These are, we submit to your excellency, manifestations not to be misunderstood of the state of opinion and of feeling among us. We are aware that efforts have been made to injure us in the estimation of this government—as individuals our characters have been assailed—our motives misrepresented—our conduct and our acts distorted. We cannot, however, but believe that among the many high-minded and honourable men who know us, and enjoy your confidence, some may be found who have done and will do us justice.

We do not arrogate to ourselves so high a standing in your estimation as to authorise us to ask that you will rely implicitly upon our statements; but we have deceived ourselves most egregiously if we have not presented to the consideration of the government sufficient grounds to induce hesitation and enquiry. You have at your command hundreds of individuals to whom you may confide the duty of making the investigation which we solicit. Select such as you can implicitly believe; associate with them but a single individual to be appointed by us to direct to the sources of information, and if we fail to establish the truth of our allegations, we shall no longer ask you to delay exercising your power in the enforcement of your rights. Should it, however, appear from such investigation, that this instrument has been made without authority, that it meets with the almost unanimous reprobation of our nation, that you have been deceived by false information, we cannot and we will not believe that under its colour, and under the sanction of those principles of justice which impose an obligation faithfully to perform our compacts and our promises, we shall be forced to submit to its iniquitous provisions. Sooner would we ask you to make no investigation, institute no inquiry—satisfy yourselves, endeavour to satisfy mankind and your God that all is right—assert the imperative duty of conforming to treaty stipulations—stand upon the high ground of power, employ your strength and drive to desperation, to exile, and to death, those whom you have called your children, and who have placed themselves under your protection. Our fate is in your hands. May the God of truth tear away every disguise and concealment from our case. May the God of justice guide your determination, and the God of mercy stay the hand of our brother, uplifted for our destruction.

During the recent session of congress, the undersigned addressed a memorial to that honourable body. The late period of the session, and the multiplied engagements which attend such a period, precluded any definitive action upon it. In the senate it was merely ordered to lie on the table, and in the house of representatives no opportunity occurred to present it. At the ensuing session it will be again submitted, should it, contrary to all our hopes, be then considered necessary. We have the honour of submitting a copy of that memorial to your excellency, and pray for that your most earnest consideration.

The documents we have with us, and which have been seen by the commissioner of Indian affairs and by the secretary at war, show that we are now fully empowered, as we were in 1836, to negotiate upon all matters with the United States. We are prepared at once to enter upon such negotiation, and we believe that all difficulties may be arranged to the mutual satisfaction of all parties.

In conclusion, we pray your excellency to understand our propositions as being specifically either—

1. To enter into a negotiation with the undersigned in reference to every matter mutually interesting to the United States and to the Cherokee nation.
2. To have a full and impartial examination of all sources of information, for the purpose of ascertaining whether the Cherokee nation, in conformity with its political institutions and forms, long recognised by the United States, ever authorised the execution of the instrument signed at New Echota, and the additional articles signed at Washington, or ever gave to them their sanction and ratification; or,
3. That the instrument in question be now submitted for approval or rejection

to the full, free, and unbiased choice of the Cherokee nation, in general council assembled.

We have the honour to be, sir, very respectfully, your most obedient servants, John Ross, R. Taylor, James Brown, Samuel Gunter, John Benge, George Sanders, representatives of the Eastern Cherokees. John Looney, Aaron Price, Wm. Dutch, W. S. Coodey, delegates from the Western Cherokees.

Washington City, March 16, 1837.

ADDRESS TO THE CHEROKEES.

HEAD QUARTERS, ARMY CHEROKEE NATION, NEW ECHOTA, GA.
March 22d, 1837.

CHEROKEES—It is nearly a year since I first arrived in this country. I then informed you of the objects of my coming among you. I told you that a treaty had been made with your people, and that your country was to be given up to the United States by the 25th May, 1838, (a little more than a year from this time,) when you would all be compelled to remove to the West. I also told you, if you would submit to the terms of the treaty I would protect you in your persons and property, at the same time I would furnish provisions and clothing to the poor and destitute of the Nation. You would not listen, but turned a deaf ear to my advice. You preferred the counsel of those who were opposed to the treaty. They told you what was not true—that your people had made no treaty with the United States, and that you would be able to retain your lands, and would not be obliged to remove to the West, the place designated for your new homes. Be no longer deceived by such advice! It is not only untrue, but if listened to, may lead to your utter ruin. The President, as well as Congress, have decreed that you should remove from this country. The people of Georgia, of North Carolina, of Tennessee and of Alabama, have decreed it. Your fate is decided, and if you do not voluntarily get ready and go by the time fixed in the treaty, you will then be forced from this country by the soldiers of the United States.

Under such circumstances what will be your condition? Deplorable in the extreme! Instead of the benefits now presented to you by the treaty, of receiving pay for the improvements of your lands, your houses, your cornfields, and your ferries, and for all the property unjustly taken from you by the white people, and at the same time, blankets, clothing and provisions for the poor, you will be driven from the country, and without a cent to support you on your arrival at your new homes. You will in vain flee to your mountains for protection. Like the Creeks, you will be hunted up and dragged from your lurking places, and hurried to the West. I would ask, are you prepared for such scenes? I trust not. Yet such will be your fate if you persist in your present determination.

Cherokees: I have not come among you to oppress you, but to protect you, and to see that justice is done you, as guarantied by the treaty. Be advised, and turn a deaf ear to those who would induce you to believe that no treaty has been made with you, and that you will not be obliged to leave your country. They cannot be friends, but the worst of enemies. Their advice, if followed, will lead to your certain destruction. The President has said that a treaty has been made with you, and must be executed agreeably to its terms. The President never changes.

Therefore, take my advice: It is the advice of a friend, who would tell you the truth, and who feels deeply interested in your welfare, and who will do every thing in his power to relieve, protect and secure to you the benefits of the treaty. And why not abandon a country no longer yours? Do you not see the white people daily coming into it, driving you from your homes and possessing your houses, your cornfields and your ferries? Hitherto I have been able in some degree, to protect you from their intrusions; in a short time it will no longer be in my power. If, however, I could protect you, you could not live with them. Your habits, your manners and your customs are unlike, and unsuited to theirs. They have no feelings, no sympathies in common with yourselves. Leave then, this country, which after the 25th May, 1838, can afford you no protection! and remove to the country designated for your new homes, which is secured to you

and your children for ever; and where you may live under your own laws, and the customs of your fathers, without intrusion or molestation from the white man. It is a country much better than the one you now occupy; where you can grow more corn, and where game is more abundant. Think seriously of what I say to you! Remember that you have but one summer more to plant corn in this country. Make the best use of this time, and dispose of your property to the best advantage. Go and settle with the Commissioners, and with the emigrating Agent, Gen. Smith, receive the money due for your improvements, your houses, your cornfields and ferries, and for the property which has been unjustly taken from you by the whitemen, and at the appointed time be prepared to remove. In the mean time, if you will apply to me or my Agents, I will cause rations, blankets and clothing to be furnished to the poor and destitute of your people.

JOHN E. WOOL,
Brigadier General Commanding.

Copy of a Letter from Hon. J. R. Poinsett, Secretary of War,
March 24, 1837.

WAR DEPARTMENT, March 24, 1837.

Gentlemen—Your memorial of the 16th instant, addressed to the president of the United States, has been laid before him, and I now proceed to communicate to you his decision upon the propositions you have submitted.

The treaty concluded at New Echota, on the 29th of December, 1835, has been ratified, according to the forms prescribed by the constitution, and it is the duty of the executive to carry into effect all its stipulations, in a spirit of liberal justice. The considerations to which you have invited the attention of the president, were brought to the notice of the senate, before they advised its confirmation, and of the house of representatives, before they made the appropriations therein provided for. Their final action must be regarded as the judgment of these branches of the government, upon the degree of weight to which they were entitled. It remains for the executive to fulfil the treaty, as the supreme law of the land.

Your second and third propositions, therefore, it is considered, cannot be acceded to, as they involve an admission that the treaty of 1835 is an incomplete instrument. To your first proposition I can only answer, as the department has already assured you that any measure suggested by you will receive a candid examination, if it be not inconsistent with, or in contravention of the provisions of the existing treaty.

Very respectfully, your most obedient servant,
(Signed) J. R. POINSETT.

Messrs. John Ross, R. Taylor, James Brown, Samuel Gunter, John Benge, George Sanders, John Looney, Aaron Price, William Dutch, and W. S. Coodey, Eastern and Western Cherokees, Washington.

(COPY.)

WASHINGTON CITY, May 4th, 1837.

To the Hon. Joel R. Poinsatt, Secretary of War.

SIR—Since taking leave of you and my separation with those of my colleagues who have returned homewards, it has become my duty to address you this letter previous to my leaving the metropolis of the United States for the Cherokee Nation.

I will not occupy your attention with a recapitulation of all that passed between us at our several interviews, on the subject of Cherokee affairs. Being informed that General Wool will be relieved of his military duties in the Cherokee country by Colonel Lindsey—I beg leave to call your attention to certain acts of oppression and injustice complained of by the Cherokees, and to ask that justice may now be extended in reference to them.

In the summer of 1835, the Georgia Guard, under the command of Colonel Wm. A. Bishop, by authority of Mr. Benjamin F. Currey, the superintendent of Cherokee removals, forcibly seized the printing press, types, books, papers and other materials pertaining to a printing office, belonging to the Cherokee Nation; and notwithstanding applications for their restoration having been made, they are still retained.

In the summer of 1836, Brigadier General John E. Wool required the Cherokees of the Valley Towns to surrender up their guns to his command; and as a proof of their peaceable disposition towards the citizens of the United States, about two hundred (or upwards) guns were brought in and delivered up by the Cherokees, to that officer. And when it was believed that General Wool could not but see that there was no propriety in withholding these arms longer, the Council of the nation, in the fall of that year, at the instance of the owners, solicited the General to restore the guns—but I am not informed that it has been done, even up to the present time.

Some time in December last, when a Committee of the nation, appointed by the General Council, consisting of Messrs. Lewis Ross, Richard Taylor, Daniel McCoy and Elijah Hicks, met at the house of John Martin, late treasurer of the Nation, for the purpose of settling his accounts preparatory to his emigration to Arkansas. At a late hour of the night, Mr. Martin's house was surrounded by United States soldiers; and in the morning, the officers in command demanded all the public papers of the nation, and forcibly took the treasurer's account-book and other papers. Mr. Martin, together with the Committee (excepting Mr. Taylor, who was not present) were then made captives, and escorted by the military to head quarters, before General Wool, a distance of twenty miles. The commanding general, after liberating these gentlemen, made a general demand of them for all the public papers of the nation, and threatened, if they were not surrendered up to him that he should be under the painful necessity of arresting all the leading men of the nation.

These unaccountably strange proceedings no doubt occurred under the pretext and authority of executing the "General Order, No. 74."—You will pardon me for repeating the suggestion to you, of the necessity for superseding the former instructions of the Department, upon which the aforesaid "General Order" was based, by those which are now to be given to Colonel Lindsey.

My most ardent desire for avoiding every possible ground of difficulty between the officers of the government and the Cherokees, prompts me to ask the indulgence of being furnished with a copy of the instructions which shall be given to that officer.* and, in conclusion, to ask the printing press, types, books, papers, &c., belonging to the Cherokee Nation, and the guns of individual Cherokees, seized and detained as herein stated, be now ordered to be restored without further detention.

I have the honour to be, sir, with great respect,

Your obedient humble servant,

JOHN ROSS,

In behalf of the Cherokee Delegation.

* This request was made at the suggestion of Colonel Lindsey. It has not as yet been met; but the Hon. Secretary, on a personal interview, assured me, that the contents of this letter would be attended to.

J. Ross.





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